Ratification of UNESCO/UNIDROIT convention

1895. SHRIMATI PREMA CARRIAPPA: Will the Minister of CULTURE be pleased to state:

(a) whether the country has ratified the UNESCO/International Institute for the unification of Private Law (UNIDROIT) Convention of Stolen or Illegally Exported Cultural Objects, 1995;

(b) if not, the reasons therefor; and

(c) if so, the details of the cases country has pursued under this Convention?

THE MINISTER OF CULTURE (SHRIMATI AMBIKA SONI): (a) No, Sir.

(b) The reasons are as under:—

i) There are no practical benefits if most of the "countries of destination" or "importing countries" of stolen or illegally exported cultural objects are not a party to the Convention. Many countries have not ratified the Convention.

ii) Under Article 3(3) of the Convention, there is a time limitation, on claiming restitution of stolen cultural property. This time limitation of three years is considered unrealistic given the resource and technical constraint of the developing countries of getting together evidence for proving ownership of stolen cultural property as well as the time taken for obtaining legal assistance from the state of destination.

iii) Under Article 4(1) of the Convention, the possessor of the cultural object is required to be compensated by the requesting state at the time of the return if he did not know that the object had been illegally exported or stolen. This places an undue burden on the requesting State and is not in conformity with the common law principle of *nemo dat quad non habit, i.e.* the buyer cannot acquire a better title than the seller of the property. The obligation to pay compensation should lie with the person who sold the illegally acquired cultural object to the possessor and not the State from which the object was stolen or illegally exported. The State, under this Convention, is under a double burden. It not only has to approach directly the courts of another contracting State for the return of a stolen cultural object, but also has to pay compensation to an innocent purchaser.

(c) Does not arise in view of (a) above.

Encroachment of historical monuments

1896. SHRI O.T. LEPCHA:
SHRI SANTOSH BAGRODIA:

Will the Minister of CULTURE be pleased to state:

(a) whether it is a fact that rampant encroachments have taken place at historical monuments due to lack of security;

(b) if so, the details of such monuments where encroachments have taken place and the steps being taken to clear such encroachments;